

Message Text

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ACTION IO-14

INFO OCT-01 ISO-00 INT-05 CIAE-00 DODE-00 PM-05 H-01
INR-10 L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15
ICA-11 HA-05 EUR-12 EA-10 /100 W
-----023436 182358Z /70

R 180013Z MAY 78
FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC 1426
INFO AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USLO PEKING
CINCPACREP GUAM

C O N F I D E N T I A L SECTION 01 OF 02 USUN NEW YORK 02009

DEPARTMENT PASS TO INTERIOR FOR OMSN AND OTA

CINCPACREP PASS TO HICOM FOR STATUS LNO

E.O. 11652: GDS
TAGS: PORGS, UNTC, TQ
SUBJECT: 45TH TRUSTEESHIP COUNCIL (TC) SESSION: FRENCH
CONCERNS WITH FREE ASSOCIATION AND THE DRAFT CONSTITUTION
AND UN PARTICIPATION

1. SUMMARY: SINCE NO PETITIONERS WERE PREPARED TO SPEAK
ON MAY 16 BOTH SCHEDULED TC MEETINGS WERE
CANCELLED. USREP COOKS, AMBASSADOR ROSENBLATT, DEPTOFF
STEWART, MISOFF KRIENDLER AND OTHER MEMBERS OF THE US TC
DELEGATION MET WITH FRENCH MISOFFS GARRIGUE (TC PRESIDENT)
AND BROCHENIN AND UK MISOFFS HARDEN (TC VICE PRESIDENT)
AND BYATT AT GARRIGUE'S REQUEST TO DISCUSS FRENCH CON-
CERNS ABOUT THE APPARENT "INCOMPATIBILITY" OF THE DRAFT
CONSTITUTION AND THE TRUSTEESHIP AGREEMENT (TA), THE
"INCOMPATIBILITY" OF THE AGREED PRINCIPLES OF FREE
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ASSOCIATION AND THE TA, UN PARTICIPATION IN THE FREE
ASSOCIATION PLEBISCITE AND SECURITY COUNCIL CONSIDERATION
OF THE PACKAGE. FOLLOWING A PROLONGED DISCUSSION,
GARRIGUE SAID HE BELIEVED WE HAD SATISFIED GOF "LEGAL"
CONCERNS BUT THAT POLITICAL CONCERNS ABOUT SC CONSIDERA-
TION REMAINED. END SUMMARY.

2. SPEAKING ON INSTRUCTIONS, GARRIGUE REQUESTED THAT THE U.S. MAKE EXPLICIT AT THIS TC SESSION THAT THE JULY CONSTITUTIONAL REFERENDUM WILL NOT BE HELD IN THE NORTHERN MARIANA ISLANDS (NMI). NOTING THAT THE U.S. OPENING STATEMENT SAID THAT THE REFERENDUM WOULD BE HELD IN THE "SIX DISTRICTS" OF THE TRUST TERRITORY AT ONE POINT AND "IN THE MARSHALL AND CAROLINE ISLANDS" AT ANOTHER, WE NEVERTHELESS AGREED TO MAKE A FURTHER MORE EXPLICIT REFERENCE TO THE EXCLUSION OF THE NORTHERN MARIANAS FROM THE REFERENDUM AND THE REASON FOR NMI EXCLUSION.

3. CONCERNING SUPPOSED "INCOMPATIBILITY" OF THE DRAFT CONSTITUTION WITH THE TA, WE EXPLAINED THAT THE CONSTITUTION SPECIFICALLY PROVIDES IN ARTICLE XVI THAT PROVISIONS HELD TO BE IN FUNDAMENTAL CONFLICT WITH THE UN CHARTER OR TA WILL NOT BECOME EFFECTIVE UNTIL TERMINATION OF THE TA. IN RESPONSE TO GARRIGUE'S FOLLOW-UP QUESTION CONCERNING WHO WOULD BE RESPONSIBLE FOR DETERMINING WHAT PROVISIONS WOULD BE IN FUNDAMENTAL CONFLICT WITH THE CHARTER OR TA, WE NOTED THAT USG HAD RESPONSIBILITY AND AUTHORITY FOR THE TT PURSUANT TO THE TA. GARRIGUE SAID THAT HE BELIEVED WE HAD SATISFIED THE GOF'S "LEGAL" CONCERNS ABOUT THE DRAFT CONSTITUTION.

4. CONCERNING THE FUTURE FREE ASSOCIATION PLEBISCITE, GARRIGUE, STILL SPEAKING ON INSTRUCTIONS, SAID THAT THE CONFIDENTIAL

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GOF DID NOT CONSIDER IT APPROPRIATE FOR THE TC TO OBSERVE IT SINCE THE GENERAL ASSEMBLY HAD OBSERVED OR SUPERVISED THE FINAL PLEBISCITE IN ALL OTHER (NON-STRATEGIC) TRUST TERRITORIES. BY ANALOGY, THEREFORE, IT SEEMED TO THE QUAI'S LAWYERS THAT THE SC SHOULD BE INVOLVED IN THE PLEBISCITE IN OUR STRATEGIC TRUST. READING FROM HIS INSTRUCTIONS, GARRIGUE SAID THAT THE QUAI IS NOT SURE THAT THE PRACTICE OF HAVING SPECIAL TC VISITING MISSIONS OBSERVE REFERENDA AND PLEBISCITES SHOULD BE MAINTAINED. IF THE USG WISHES TO CONTINUE THE PRACTICE, THE GOF MUST INSIST THAT WE MAKE EXPLICIT THAT THIS PRACTICE DOES NOT CONSTITUTE A PRECEDENT (WITH RESPECT TO WHAT THEY DID NOT SPECIFY). WE NOTED THE CHARTER PROVISIONS CONCERNING STRATEGIC AREAS AS WELL AS THE UNIQUE NATURE OF THE TTPI.

5. IN RESPONSE TO GARRIGUE'S EXPRESSION OF CONCERN, ON INSTRUCTIONS, THAT "ELEMENTS" OF THE AGREED PRINCIPLES OF FREE ASSOCIATION ARE NOT COMPATIBLE WITH THE TA, AMB ROSEN BLATT NOTED THAT FREE ASSOCIATION WILL NOT GO INTO EFFECT UNTIL TERMINATION AND PROVIDED A DETAILED SCENARIO OF EVENTS LEADING UP TO TERMINATION. WE ALSO NOTED THAT

THE TA DOES NOT SPECIFY THE FORM OF GOVERNMENT THAT MICRONESIA SHOULD HAVE FOLLOWING TERMINATION. FOLLOWING PROLONGED DISCUSSION OF THIS POINT, GARRIGUE SAID HE BELIEVED WE HAD RESOLVED THE LEGAL PROBLEMS THAT HE HAD RAISED BUT NOTED HIS GOVERNMENT EXPECTED POLITICAL DIFFICULTIES IN SECURING SC ACCEPTANCE OF THE STATUS OF FREE ASSOCIATION. SMILING, GARRIGUE SAID THAT THE QUAI ASSUMES WE HAVE A "GENTLEMEN'S AGREEMENT" WITH THE SOVIET UNION NOT TO MAKE TROUBLE FOR US. WE INDICATED ASTONISHMENT AND SAID THAT WE ARE UNAWARE OF ANY SUCH AGREEMENT.

6. GARRIGUE ASKED ABOUT WHAT ACTION WE HOPED THE TC WOULD TAKE AT THIS SESSION IN RESPONSE TO CIRCULATION OF

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THE AGREED PRINCIPLES OF FREE ASSOCIATION, KRIENDLER SAID HE THOUGHT SOMETHING ALONG THE LINES OF LAST YEAR'S TC CONCLUSION ON FREE ASSOCIATION WOULD BE APPROPRIATE (NOTING THAT FREE ASSOCIATION, IF ENDORSED BY THE POPULATION, WOULD NOT BE INCONSISTENT WITH THE AIMS OF THE TA). GARRIGUE AND BYATT SAID SUCH LANGUAGE SHOULD POSE NO PROBLEM.

7. BYATT (UK) SAID THAT HE HAD NO INSTRUCTIONS ON

THE MATTERS UNDER DISCUSSION BUT DID NOT ANTICIPATE THAT HMG WOULD HAVE ANY "LEGAL" DIFFICULTIES WITH THE DRAFT CONSTITUTION OR THE AGREED PRINCIPLES SINCE PROVISIONS WHICH ARE NOT COMPATIBLE WITH THE TA WILL NOT COME INTO EFFECT UNTIL TERMINATION. HE DOES ANTICIPATE POLITICAL DIFFICULTIES IN THE SC, PARTICULARLY WITH THE DEFENSE PROVISIONS. NOTING THAT IT WOULD NOT BE NECESSARY OR

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DESIRABLE TO ADDRESS THE QUESTION OF UN PARTICIPATION IN THE PLEBISCITE AT THIS TC SESSION, BYATT, SPEAKING PERSONALLY, SAID HE THOUGHT IT WOULD BE USEFUL TO HAVE THE SC OBSERVE THE PLEBISCITE IN ORDER TO LOCK THE SC INTO THE ACT OF SELF-DETERMINATION AND TRY TO INSURE THAT THE SC WOULD NOT OPPOSE TERMINATION BASED ON FREE ASSOCIATION. HE AGREED WITH GARRIGUE THAT IT WOULD BE USEFUL FOR US TO READ INTO THE RECORD AT THIS TC SESSION THAT THE FREE ASSOCIATION WILL NOT COME INTO EFFECT UNTIL TERMINATION (A POINT ON WHICH THERE SEEMS TO BE CONFUSION) AND THAT PROVISIONS OF THE DRAFT CONSTITUTION WHICH CONFLICT WITH THE TA WILL NOT GO INTO EFFECT UNTIL TERMINATION.

8. AMBASSADOR ROSENBLATT PROVIDED DETAILED RESPONSE TO NUMEROUS FRENCH AND UK QUESTIONS AND PROMISED TO KEEP THEM FULLY INFORMED, OFFERING TO RESOLVE ANY REMAINING QUESTIONS OF THE QUAI'S LAWYERS PERSONALLY, SHOULD THEY DESIRE. LEONARD

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: SESSION (UN), TRUSTEESHIPS (UN)
Control Number: n/a
Copy: SINGLE
Draft Date: 18 may 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978USUNN02009
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780210-0431
Format: TEL
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1978/newtext/t19780542/aaaabjsn.tel
Line Count: 202
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Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: ae588c9a-c288-dd11-92da-001cc4696bcc
Office: ACTION IO
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 27 jun 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2644909
Secure: OPEN
Status: NATIVE
Subject: 45TH TRUSTEESHIP COUNCIL (TC) SESSION: FRENCH CONCERNS WITH FREE ASSOCIATION AND THE DRAFT CONSTITUTION AND UN PARTICIPATION
TAGS: PORG, PDEV, TQ, CQ, NQ, UNTC, TRUSTEESHIP COUNCIL
To: STATE
Type: TE
vdkgvkey: odbc://SAS/SAS.dbo.SAS_Docs/ae588c9a-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014